#573

BILL NO. Z-94-11-05

ZONING MAP ORDINANCE NO. Z-10-95

AN ORDINANCE amending the City of Fort Wayne Zoning Map No.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated an B-1-B (Limited Business) District under the terms of Chapter 157 Title XV of the Code of the City of Fort Wayne, Indiana of 1974:

Lot Number 55 in Ludwig Park Addition, according to the plat thereof recorded in Plat Record 23, pages 49-50, in the Office of the Recorder of Allen County, Indiana.

and the symbols of the City of Fort Wayne Zoning Map No. K-38, as established by Section 157.016 of Title XV of the Code of the City of Fort Wayne, Indiana are hereby changed accordingly.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Janet Bradbury
Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCaulay
J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19_____, at _____ o'clock _____ M.,E.S.T.

DATED: _____

SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Quinn, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	5	3		1
BRADBURY				✓
EDMONDS	✓			
GiaQUINTA	✓			
HENRY		✓		
LONG	✓			
LUNSEY		✓		
RAVINE	✓			
SCHMIDT	✓			
TALARICO		✓		

DATED: 9-26-95.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ (APPROPRIATION) ~~(GENERAL)~~ ~~(SPECIAL)~~ (ZONING) ORDINANCE ~~RESOLUTION~~ NO. Z-10-95 on the 26th day of September, 19 95

ATTEST:

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

(SEAL)

Don J. Schmidt
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 27th day of September, 19 95, at the hour of 11:30 o'clock A.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 6th day of October, 19 95, at the hour of 1:45 o'clock P.M., E.S.T.

PAUL HELMKE, MAYOR

BILL NO. Z-9~~5~~-11-05

REPORT OF THE COMMITTEE ON
REGULATIONS
CLETUS R. EDMONDS - REBECCA J. RAVINE - CO-CHAIR
ALL COUNCIL MEMBERS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City of Fort Wayne Zoning Map No. K-38

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE) (~~RESOLUTION~~)

DO PASS	DO NOT PASS	ABSTAIN	NO REC
	Sam Talarico		Cletus R Edmonds

DATED: 9-26-95

Sandra E. Kennedy
City Clerk

PRESCRIBED BY STATE BOARD O

COMMUNITY & ECONOMIC DEVELOPMENT

FT. WAYNE, IN., 10-22

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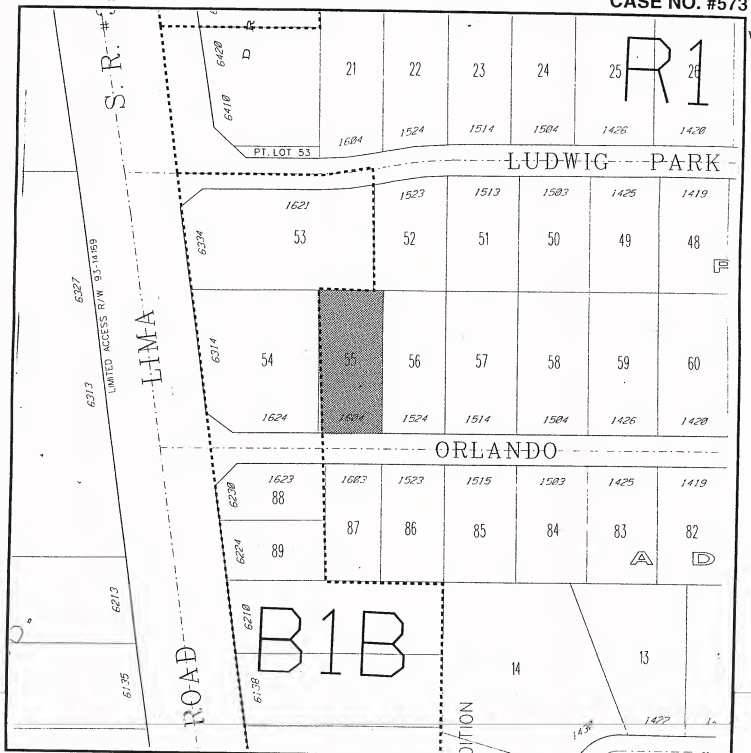
8216

PAID BY: CASH ☐ CHECK ☒ M.O. ☐

REZONING PETITION

AREA MAP

CASE NO. #573



COUNCILMANIC DISTRICT NO. **3**

Map No. K-38
LW 10-22-94

R1	One-Family	**B1**	Limited Business	**M1**	Light Industrial
R2	Two-Family	**B2**	Planned Shopping Center	**M2**	General Industrial
R3	Multi-Family	**B3**	General Business	**M3**	Heavy Industrial
RA/RB	Residential	**B4**	Roadside Business	**MHP**	Mobile Home Park
PUD	Planned Unit Dev.	**POD**	Professional Office District		

Petition for a Zoning Map Amendment

Community & Economic Development / 1 Main Street Rm 830 / Fort Wayne, IN 46802 / (219) 427-1140

I/~~We~~ Patrick J. Bruggeman do hereby petition to amend the Zoning Map of the City of Fort Wayne Indiana, by reclassifying from a/~~an~~ R-1 designation to a/~~an~~ B-1B designation, the property located at the common street address of: 1514 Orlando Drive and further described as follows:

Lot Number 55 in Ludwig Park Addition, according to the plat thereof recorded in Plat Record 23, pages 49-50, in the Office of the Recorder of Allen County, Indiana.

(Please attach a legal description if more space is needed.)

The purpose of this proposed rezoning is to permit the use of the property for the following:
Retail furniture store (the largest portion of which shall be located on Lot 54 to the west) and parking lot and driveway for said store.

Property owners Name(s): Patrick J. Bruggeman

Street Address: 131 W. Columbia Street

City: Fort Wayne State: IN Zip: 46802 Phone: 482-9665

Applicants Name (if different from above): Klopfenstein Furniture, Inc.

Street Address: 14608 St. Rd. 1

City: Leo State: IN Zip: 46765 Phone: 627-2114

I/~~We~~ the undersigned, do hereby certify that I am/~~We are~~ the owner(s) of more than fifty percent (50%) of the property described in this petition; that I/~~we~~ agree to abide by all provisions of the Fort Wayne Zoning Ordinance as well as all procedures and policies of the Fort Wayne City Plan Commission as relating to the handling and disposition of this petition; and that the above information is true and accurate to the best of my/our knowledge.

Signature	Printed Name	Date
	Patrick J. Bruggeman	10/19/94

Notes to the Applicant:

- If additional space is needed for either a legal description, or property owners names addresses and signatures, please attach same to this form.
- All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice being submitted to the newspaper for publication.
- Filing of this petition grants the City of Fort Wayne permission to post "Official Notice" on the petitioned property. Failure to post, or to maintain posting may prevent the public hearing from being held.
- All checks should be made payable to: City of Fort Wayne.

Name and address of preparer, attorney or agent.

Peter G. Mallers, Attorney at Law 219/426-9706
Telephone Number

110 W. Berry Street, Suite 1100

Fort Wayne, Indiana 46802

Form Rez494

Receipt #:	Date Filed:
Map #:	Reference #:

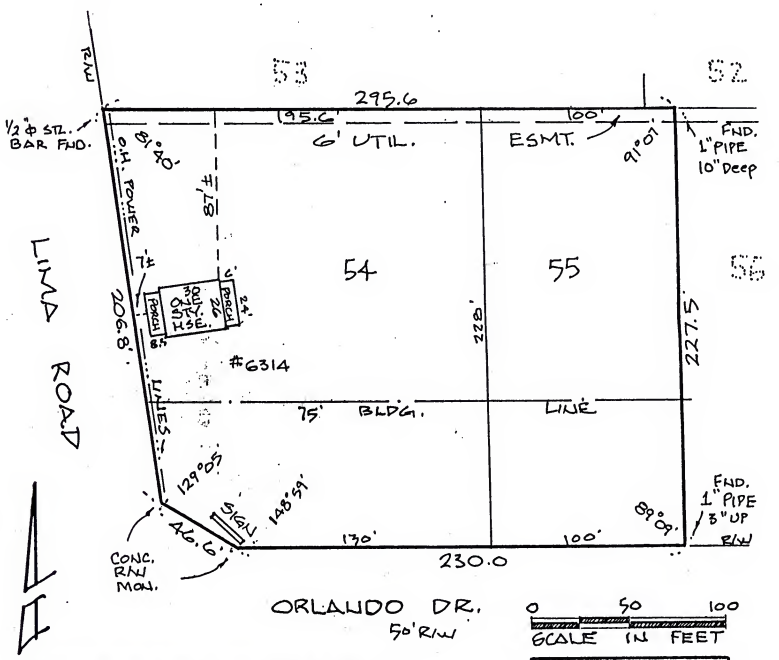
OWENS & ASSOCIATES Land SURVEYORS

1910 ST. JOE CTR. ROAD
FT. WAYNE, IN 46825

PHONE: 219·484·7500
FAX: 219·484·5092

The undersigned Land Surveyor, registered under the Laws of the State of Indiana, hereby certifies that he has made a resurvey of the real estate described and shown below, that measurements were made and monuments were set in conformity with records on file in the office of the Recorder of ALLEN County, Indiana and that any encroachments or discrepancies found on said real estate are shown below.

LEGAL DESCRIPTION: SEE PAGE 2.



See attached sheet for surveyor's report.

Field work completed on: 9-23-94

THE ABOVE DESCRIBED REAL ESTATE LIES IN ZONE "X" ACCORDING TO THE FLOOD INSURANCE RATE MAP FOR ALLEN COUNTY, INDIANA.

TIMOTHY F. OWENS REGISTERED No. S0241 STATE OF INDIANA LAND SURVEYOR

FOR THE EXCLUSIVE USE OF:
BRUGGEMAN ENT. / KLOPFENSTEIN

DATE SEP. 28, 1994

JOB NO. 94488

Timothy F. Owens

LEGAL DESCRIPTION:

Lot 55 in Ludwig Park Addition, as recorded in Plat Book 23 on pages 49 and 50 in the Office of the Allen County Recorder;

ALSO part of Lot 54 in said Addition described as follows: Beginning at the southeast corner of said Lot; thence West on the south line thereof 130.0 feet to a concrete right of way monument; thence Northwesterly deflecting right 31 degrees 01 minute on and along the right of way of Lima Road 46.6 feet to a concrete right of way monument; thence Northwesterly deflecting right 50 degrees 55 minutes on and along said right of way 206.8 feet to a steel bar on the north line of said Lot; thence East deflecting right 98 degrees 20 minutes on and along the north line of said Lot a distance of 195.6 feet to the northeast corner of said Lot; thence South deflecting right 88 degrees 53 minutes on and along the east line of said Lot a distance of 228.0 feet to the point of beginning.

T F OWENS & ASSOCIATES INC

Job No. 94488
For: Bruggeman / Klopfenstein
September 28, 1994

(report on page 3)

COPY

SURVEYOR'S REPORT - T. F. OWENS & ASSOCIATES INC. - September 28, 1994

OWNER: Bruggeman Enterprises
BUYER: Klopfenstein
JOB No. 94488

This report and the accompanying survey plat have been prepared in accordance with Title 865, Article 1, Rule 12. Sec 1-29 of the Indiana Administrative Code which establishes the minimum standards for the practice of land surveying.

The subject tract of land lies in Zone X according to flood maps published by FEMA for the National Flood Insurance Program. (Zone X is an area determined to be outside the 100 year flood plain).

Title report was not provided at time of survey. A title search could reveal easements or rights of way not shown on the survey plat.

The theoretical uncertainty of the corners of the subject tract lies within the specifications of a Class B Survey as defined in Section 7 of said Rule 12. (Random errors in measurements = 0.25 foot maximum).

Found monument types are shown on the drawing.
Monuments are approximately level with ground unless noted otherwise.

Uncertainty in the location of the monuments found or set on the subject property due to variations in reference monuments (monuments found on the subject property and on adjacent properties) is approximately 0.3 foot.

There are no fences or man made or placed objects defining the property lines.

This survey was made under the supervision of Timothy F. Owens L.S.

Field work was completed on September 23, 1994.

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on November 11, 1994 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-94-11-05; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on November 21, 1994.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held November 28, 1994.

Certified and signed this
3rd day of August 1995.

Carol Kettler Sharp

Carol Kettler Sharp
Secretary

AMENDED CERTIFICATION

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on November 11, 1994 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated Bill No. Z-94-11-05; and,

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NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will not be injurious to the public health, safety, morals, and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner;

(3) the need for the rezoning arises from some condition peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

(4) the strict application of the terms of the zoning ordinance will constitute an unusual and unnecessary hardship if applied to the property for which the rezoning is sought; and,

(5) the grant does not interfere substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law.

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held January 30, 1995.

Certified and signed this
3rd day of August 1995.

Carol Kettler Sharp

Carol Kettler Sharp
Secretary

a. Bill No. Z-94-11-05 - Change of Zone #573
From R-1 to B-1-B
1514 Orlando Dr

Mr. Mallers stated that he represented Patrick J. Bruggeman the owner of Lots 54 & 55 in Ludwig Park Addition. He stated that Lot 55 is the subject of the rezoning petition and both Lots 54 & 55 are the subject of the petition to vacate. He stated that Lot 54 was rezoned from R-1 to B-1-B in 1989 along with a number of other properties on the east side of Lima Road from Washington Center Road extending north to Ludwig Park Drive. He stated that the present request to rezone Lot 55 is a result of a proposal from Klopfenstein Furniture to purchase both Lot 54 & 55 for the purpose of constructing a retail furniture store. He stated that the petition to vacate the plat is based on the recognition that both of these lots are part of Ludwig Park, which is subject to certain plat restrictions and building lines, which apply only to residential properties. He stated that they feel that in order to proceed with the proposed commercial development it is necessary to deal with the plat matters as well. He stated that in 1989 it was acknowledged, by the owners of the various properties that were rezoned at that time, that whenever there would be commercial development proposed for those lots within Ludwig Park Addition, the matter of the plat restrictions would have to handled at the time of the proposed development. He stated that as far as he knew this was the first time that they have been dealing with this particular situation. He stated that Mr. Bruggeman has had numerous offers to purchase Lot 54 & 55, some of which have been for a higher purchase price than Klopfenstein Furniture. Mr. Bruggeman felt that the Klopfenstein proposal would be more compatible with the residential uses of the neighborhood in recognizing that he would be dealing with the neighborhood association on the plat matters. He stated that they were there for the first time dealing with both the rezoning and the plat. He stated that he recognized that a consideration of rezoning is not necessarily concerned with a specific proposal. He stated that he believed that it is important that to consider some of the basic elements of the Klopfenstein proposal so that you will have a better understanding of what they are dealing with in the petition and why they feel the rezoning of Lot 55 is appropriate. He stated that Klopfenstein Furniture is a longstanding and reputable business in this area and it desires to establish a presence in Fort Wayne on Lima Road. He stated that while the specific development plan has not been finalized a preliminary site plan has been prepared and reviewed with the Feasibility Committee and with other city departments as well as with the Ludwig Park Association. He stated that they have tried to emphasize to the association that this is a preliminary plan only. He stated that Mr. Klopfenstein does not want to undertake the significant expense of developing a final plan until all of the details, including approval of the rezoning and vacation requests have been finalized. He stated that the building for any retail furniture store is going to be relatively large in size compared to other retail operations. However, he stated, what they feel is unique is that they have a very low traffic volume. He stated that based on the current Klopfenstein operation the estimate is 14 to 15 customer cars a day. He stated that this would vary of course based on the day of the week, the time of the year and special sales. He stated that they felt that the hours of operation would be compatible with the surrounding uses. He stated that a furniture would be open from 10 am to 8 pm on most days, 10 am to 5 pm on Saturday and not open at all on Sunday. He stated that is subject to some change, but based on the current Klopfenstein operation that is what they have found to be appropriate and that is what they are proposing at this site. He stated that a loading dock will be required. He stated however that the majority of deliveries will be by smaller truck, van or possibly UPS. He stated that a semi-truck will be required approximately once every 5 days. He stated that there have been discussion with the city regarding access and drainage, and obviously the project will have to comply with all city requirements. He stated that the landscape buffer, which was established in 1989 as a requirement of the rezoning of the

properties on Lima Road, will be voluntarily shifted to the east property line of Lot 55 so that an adequate buffer will in affect between this commercial development and the residential use to the east. Mr. Mallers stated that representatives of the petitioner, Mr. Bruggeman and Mr. Klopfenstein and his representative, have met with members of the Ludwig Park Board of Directors and with members of the association. The petitioner believes that the rezoning of Lot 55 to a B1B classification is appropriate for a number of reasons. The rezoning of Lot 53 & 54, which is to the north and the other properties to the south of Lot 54, was in recognition of the changing character of Lima Road and adjacent properties. He stated that over the last five years, from the rezoning, the commercial growth in this area has expanded greatly, particularly with the development of Crosscreek, which in 1989 was only in the early planning stages. He stated that there have been numerous other properties in the area that have been developed for business purposes. He stated that it was his understanding that many of those properties, which were zoned in 1989, are now the subject of rather intense investigation as to commercial uses. In 1989 Lot 55 was originally included in the petition to rezone, but it was voluntarily withdrawn. However, considering the depth of Lot 53 to the north, rezoning Lot 55 creates a similarly sized business parcel to the south of Lot 53. He stated that this configuration existed in 1989, but not only have the circumstances changed over the last 5 years, but now they have a specific proposal that requires the use of both Lots 54 & 55. He stated that in 1989 there was no specific proposal for these property. He stated that given the fact that Lot 55 has been vacant for well over 10 years, it is highly unlikely that this would ever be used for residential purposes. He stated that rezoning Lot 55 is consistent with the Comprehensive Plan, which encourages growth in a balanced manner within or adjacent to existing development and which does not establish an undesirable precedent. He stated that because of the existing B-1-B Lots 53 & 54 extending the B1B zoning to Lot 55, which adjacent to both, does provide balanced growth. He stated that rezoning Lot 55 to permit the proposed use, on both Lots 54 & 55, clearly reflects that the most desirable use for this property is commercial. He stated that the petitioner maintains that the proposed plan for Lots 54 & 55 will not have a negative effect on the surrounding properties. He stated that given the concentrated commercialization of Lima Road and given the many possibilities for the business use for Lot 54, for less compatible uses on this property, it stands to reason that the proposed use will be as compatible a business use as exists. In 1989 the city required a landscape buffer. He stated that Mr. Klopfenstein is willing to place that on the east property line of Lot 55. He stated that they feel that will help secure the property values of the properties to the east. Further there are discussions with the city to install a cul de sac on Orlando Drive east of Lot 55, which they feel would be a further effort to conserve the property values. He stated that for all of the above reasons the petitioners maintain that the rezoning of Lot 55 to B1B and permitting Klopfenstein Furniture to develop Lots 54 & 55 as planned would constitute responsible development for this area. The rezoning of Lot 55 would not be spot zoning, in that it is adjacent to existing B1B property. The placement of the landscape buffer to the east property line shows further evidence of responsible development, and considering the numerous and more offensive business uses for which Lot 54 could already be used, the proposal constitutes responsible development. He stated that the second part of the presentation involves the petition of Klopfenstein Furniture to vacate Lots 54 & 55 from the plat of Ludwig Park Subdivision, including all restrictions, building lines and other encumbrances. As the staff discussion indicates, Klopfenstein Furniture and the Mr. Bruggeman recognize that Lots 54 & 55 are in the plat of Ludwig Park, which was platted in 1956. Mr. Mallers distributed copies of the plat along with the restrictions to the Commission Members. Mr. Mallers stated that they were aware that there is a prescribed procedure in the plat itself for amending the plat. He stated that they are not ignoring that. He stated that they have had meetings with the Board of Directors for Ludwig Park Association and their are continuing to investigate their concerns and investigate solutions. He stated that they have every intention of reaching an agreement with

the association relative to the various restrictions. However, he stated since the Plan Commission does have jurisdiction over plats, and because there is a 75 foot building line that extends across both these lots, they have filed the petition so that they could handle all other plat matters relative to the proposal. He stated that they have discussed with the association the possibility of entering into new covenants and restrictions. He stated at this time they have not reached a specific agreement. He stated that they are well aware that there are a number of concerns voiced by the residents, concerns related to the landscape buffer, drainage, future uses and the cul de sac. He stated that based on numerous discussions with the city, they feel that there are some real prospects toward having a cul de sac developed for Orlando Drive east of the proposed development. He stated that he would assure the Commission and the residents that they will continue their efforts to finalize that discussion and make a specific proposal to the association. He stated that as far as future uses for the property, recognizing that there are a multitude of uses available, they have tried to express to the association that Mr. Klopfenstein is a young man and this is his future. He stated that Mr. Klopfenstein has every intention of utilizing this property for the furniture store. He stated that he is willing to make a sizable investment for that purpose. He stated that recognizing that anything can happen, they have indicated that there are a number of B1A and B1B uses that Mr. Klopfenstein is willing to exclude in the form of a restrictive covenant, with the association, so that as such time as it is no longer used as a furniture store, the use will be restricted. He stated that the vacation of the lots from the plat along with the 75 foot building line will allow for the best potential site development for these lots. He stated that if lots 54 & 55 remain in the plat, the owner & developer will be faced with either violating the restrictions and facing a court action. He stated that having the Commission's approval of the vacation is a necessary step in the development process. He stated that given the current B1B zoning for Lot 54 and assuming a rezoning of Lot 55 to B1B, the subject restrictions and existing building lines are no longer applicable for these lots and approval of this request is appropriate. He stated in conclusion for all of the reasons stated for the rezoning of Lot 55 and with respect of vacating both Lots 54 & 55 from the plat of Ludwig Park they respectfully request that the Plan Commission approve the petitions.

Mark GiaQunita questioned Mr. Mallers if he felt that there had been a change in circumstances there that would warrant the removable of the covenants.

Mr. Mallers stated "absolutely."

Mr. GiaQuinta asked what the impact of the rezoning without a compromise over the covenants.

Mr. Mallers stated that any developer could proceed to build and technically be in violation of the covenants. He stated that undoubtedly a court action would ensue. He stated they do not want to take that approach.

Ken Miller, (present resident of the Ludwig Park Addition and present vice-present of the Ludwig Park Neighborhood Association Board of Directors) appeared before the Commission in opposition. He presented a document, which is attached and was read into the minutes at the public hearing. Mr. Miller states in the document that, "It is not intended that this document comprehensively communicates all our residents concerns, but that it is only representative, and as the ramifications of this proposal are further comprehended yet other concerns may be forthcoming.".

Bill Swisher, 904 Pelham Drive, former President of the Ludwig Park Association appeared

before the Commission in opposition to the proposed rezoning and vacation. Mr. Swisher stated that he was president of the association in 1989 when the first zoning was done along Lima Road. He stated that the Plan Commission at that time voted against rezoning Lot 55 and they were grateful for that decision. He stated that Mr. Mallers had stated that he did not think that anything had been brought up before, but the Burger King proposal had been brought up at that time. He stated that they had great support from the association at that time and they do now. against

In rebuttal Mr. Mallers stated that he would address Mr. Swisher comment first. He stated that he was involved in the rezoning in 1989. He stated that the Burger King proposal was the impudence behind the entire rezoning. He stated that they dropped out of the picture before it ever came to the Plan Commission for a hearing. He stated that he wanted to correct what Mr. Swisher said regarding Lot 55. The Plan Commission did not vote to not rezone Lot 55, that was voluntarily withdrawn. Regarding the comments of Mr. Miller, Mr. Mallers stated that they did meet with the Board over a month ago and for scheduling reasons they finally had the meeting as a whole on last Tuesday. He stated that they initiated their discussions with the association through the Board, well over a month ago. Mr. Mallers stated that with regard to the landscape buffer, regardless of the preliminary site plan displayed by Mr. Miller, they are saying at this point that Mr. Klopfenstein is willing to have the same landscape buffer that was required in 1989 resituated at the east property line of Lot 55. He stated that in 1989 the city required that the property owners enter into a declaration of covenants for the granting of a 40 foot easement for the frontage road. It was considered at that time to be an appropriate means of access. He stated that the essence of it is, that at any time that a commercial development would be proposed and approved for construction, then the city would require that the property owner grant the forty foot easement. There has been some reference now to the road not being a frontage but a service road at some other location. He stated that is only because the city is rethinking what would be best for the entire area. He stated that it is not their proposal. He stated that also in 1989, the property owners submitted a letter to Tom Cain, promising that the landscape buffer would be implemented, so that is not technically part of the declaration of covenants, but it is of record. Mr. Mallers stated that with respect to all of the references, made by Mr. Miller in his statement, to the Phillip's project, he was aware that the association was considering the two projects together. He stated that there is no Phillip project for Lot 53 presented to the Commission, it is really not part of this discussion. He stated they had actually hoped to present both proposals, Phillip's and Klopfenstein's, together, but for various reasons Mr. Phillip and the owner of Lot 53 decided not to. He stated that just because Lot 55 is rezoned does not mean necessarily that any other lot will be rezoned. He stated that Mr. Bruggeman does own Lots 56, 57 & 58 and without going into detail these lots were acquired a number of years ago by Mr. Bruggeman as he was assisting the owner of the lots at the time who was having financial troubles. He stated that if you look at the plat Lots 57 & 58 are terribly misaligned from any other reasonable line of B1B property. He stated that they are not part of this application, nor is Lot 56, there is no intent to now or ever have those lots rezoned. He stated that Mr. Miller's statement made reference to "possible" property devaluation, "possible" traffic problems, "possible" various other problems. He stated that he thought it was highly speculative. He stated that when you consider some of the potential uses for Lot 54, nearly 90 B1A and B1B uses, many of which are going to create a much greater possibility for these kinds of problems than what is being proposed. He stated as far as the request for a delay as stated by Mr. Miller, Mr. Mallers stated that he would like to leave that open. He stated that there is a possibility that they will request that the petition to vacate be postponed for a period of time while they continue to work with the association. He stated that they intend to discuss that further this week and have more information on that on Monday.

There was no one else present who spoke in favor of or in opposition to the proposed rezoning.

FACT SHEET

Z-94-11-05
BILL NUMBER

Division of Community Development & Planning

BRIEF TITLE: Zoning Map Amendment From R1 to B1B

APPROVAL DEADLINE:

REASON:

DETAILS

Specific Location and/or Address

1514 Orlando Drive

Reason for Project

Commercial Development

Discussion (Including relationship to other Council actions)

21 November 1994- Public Hearing

See Attached Minutes of Meeting

28 November 1994 - Business Meeting

Deferred to January 9, 1995 Business Meeting.

9 January 1995 - Business Meeting

Deferred to January 30, 1995 Business Meeting.

30 January 1995 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation, contingent upon the petitioners volunteered relocation of the perimeter screen requirement that was established in 1989-1990.

Of the eight (8) members present, seven (7) voted in favor of the motion the Chair did not vote.

Motion carried.

POSITIONS	RECOMMENDATIONS
Sponsor	City Plan Commission
Area Affected	City Wide Other Areas
Applicants/ Proponents	Applicant(s) Patrick Bruggeman City Department Other
Opponents	Groups or Individuals Ken Miller, Pres Ludwig Pk Association Basis of Opposition -possible impact of commercial encroachment and traffic flow into residential areas
Staff Recommendation	[X] For [ ] Against Reason Against
Board or Commission Recommendation	By [X] For [ ] Against [ ] No Action Taken [ ] For with revisions to conditions (See Details column for conditions)
CITY COUNCIL ACTIONS (For Council use only)	[ ] Pass [ ] Other [ ] Pass (as amended) [ ] Hold [ ] Council Sub. [ ] Do not pass

DETAILS

POLICY/PROGRAM IMPACT

Policy or Program Change	☐ No ☐ Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start Date 20 October 1994

Projected Completion or Occupancy Date 3 August 1995

Fact Sheet Prepared by Date 3 August 1995
Patricia Biancaniello

Reviewed by Date 8 August 1995

Reference or Case Number

#573 ORIGINAL ORIGINAL

DIGEST SHEET

TITLE OF ORDINANCE Zoning Map Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE 1514 Orlando Drive

Z-94-11-05

EFFECT OF PASSAGE Property is currently zoned R-1 - Single Family Residential. Property will be zoned B-1-B - Limited Business District.

EFFECT OF NON-PASSAGE Property will remain zoned R-1 - Single Family Residential.

MONEY INVOLVED (Direct Costs, Expenditures, Savings)

(ASSIGN TO COMMITTEE)